



Zoning Administrator Hearing

Minutes

Mizner Conference Room
Mesa City Plaza Building, Suite 130
20 East Main Street
Mesa, Arizona, 85201

John S. Gendron
Hearing Officer

DATE June 17, 2008 TIME 1:30 P.M.

Staff Present

Jeff McVay
Brandice Elliott
Josh Mike
Patrick Murphy
Kelly Arredondo

Others Present

Randolph Carter	Lee Dove
James Carpentier	Roy Perkins
Fred Woods	Dan O Loman
Kevin Kerpan	Matt Hendricks
Kevin Todd	Wayne Martella
Bruce Berrett	Randy Vogel
Francie Cohen	Jeremy Galloway
Doug Dawson	John Hogle

CASES

Case No.: ZA08-037TC

Location: 1 East Main Street

Subject: Requesting modification of a Special Use Permit (SUP) for the Mesa Arts Center comprehensive sign plan in the TCC zoning district.

Decision: Approved with the following conditions:

1. Full compliance with Special Use Permit Case Numbers ZA01-064TC and ZA03-011TC, Comprehensive Sign Plan, with modifications presented in Special Use Permit Case Number ZA08-037TC and all current Code requirements, unless modified by the conditions listed below.
2. The new monument sign shall not exceed the area or height as portrayed in the rendering original date December 5, 2007 (File Design Number 6071609-R11)
3. All signage shall be subject to the approval of a separate sign permit.
4. Video usage of the electronic message display board shall not be permitted unless requested through a modification of this Comprehensive Sign Plan.
5. Change in display of the static messages shall occur by means of fade, dissolve, or scrolling modes.
6. The minimum time period for the display of each message shall be no less than fifteen (15) seconds and no more than four (4) times per minute.
7. The modification to the Comprehensive Sign Plan shall allow only Sign B, eight feet (8') in height and forty-four (44) square feet in sign area; Sign A, eighteen

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feet (18') in height and sixty-six (66) square feet in sign area shall not be permitted.

Summary:

Mr. Gendron stated that he reviewed all materials within the case file before asking a representative to present any additional information. Randy Vogel, Performing Arts Center Administrator, presented the requested comprehensive sign plan modification. Mr. Vogel noted he did not have additional information to present from what has been presented. In response to a question from Mr. Gendron, Mr. Vogel explained that Sign B will have a pedestrian and automobile orientation with an electronic message center. Mr. Gendron confirmed that the message displays will be accomplished through fade, dissolve, or scrolling. Mr. Vogel explained that Sign A will have an electronic message center and will mimic the design of existing signs along Main Street. It was explained by Jeremy Galloway, YESCO, that at 25 mph you would have a 20 second read rate and a 15 second change between messages would be sufficient for this location. James Carpentier, YESCO, confirmed to Mr. Gendron that the signs would be compliant with the Ordinance requirements for illumination intensity and that maximum light intensity levels would be pre-set and could not be modified by the Mesa Art Center.

In response to Mr. Gendron, Mr. Vogel explained that Sign A is intended as the primary sign for Mesa Art Center to address vehicles travelling east and west on Main Street and Sign B is intended to address vehicles travelling north on Center. Mr. Carpentier explained that Sign A has an overall height of 18 feet and a clear height of 10 feet to allow visibility for bus drivers to a new bus shelter that is planned east of the Sign A location.

In response to Mr. Gendron, Mr. Galloway confirmed that both signs would display the same message and the messages would change at the same time. Mr. Carpentier further stated there have been many studies completed in relation to large digital billboards, that find change rates of 8 to 10 seconds does not present a safety concern; extending those findings to the subject site, he noted the speed and change rate would not be distracting to motorist. Mr. Gendron noted that when the electronic message display requirements were adopted by City Council, there was concern about the signs being distracting.

In response to Mr. Gendron, Patrick Murphy, Town Center Development, explained that the Pedestrian Overlay Area (POA) is a boundary that was created as part of a Sign Ordinance update to allow different signage types, such as projecting and hanging signs, for uses within the core pedestrian area of the City. In response to Mr. Gendron, Mr. Murphy noted that monument signs are not allowed in the POA, unless approved through a comprehensive sign plan. Mr. Gendron questioned why monument signs would not be allowed. Mr. Murphy noted that typically freestanding signs are not necessary in an urban core area and that the majority of the area is colonnade, which does not provide sufficient area for freestanding signs. Mr. Murphy noted the Mesa Art Center is on the outskirts of the POA, was not constructed when the POA modifications were made to the Sign Ordinance, and is a unique use that encompasses nearly 10 acres.

Mr. Gendron inquired about the justification applied by the Downtown Development Committee (DDC) in the recommendation for approval. Mr. Murphy noted that the

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DDC staff report presents the reasons for the requested signs and provides the findings of fact to justify the increased sign height. Mr. Gendron confirmed that Brown and Brown Chevrolet would be eligible to apply for a similar sign through a comprehensive sign plan. Mr. Gendron confirmed that all the previously approved signs have been installed. Mr. Murphy noted that an existing box office sign and directory kiosk will be removed with this request.

Mr. Murphy provided the staff report and recommendation, noting that staff believes the proposed signs are consistent the intent of the Sign Ordinance requirements. He further noted the DDC unanimously recommended approval on June 5, 2008. Citizen involvement was completed and the Downtown Mesa Association has recommend approval, as well. Staff did not receive any opposition to the request.

Mr. Gendron stated the following in making his decision: 1) the DDC recommendation for approval of Sign A did not provide justification for exceeding the Sign Ordinance to the extend proposed, nor for two signs in such close proximity and displaying the same message; 2) the proposal does not comply with the criteria for the granting of a Special Use Permit (SUP), noting the definition of SUP states the proposal should be consistent with Council adopted policies; 3) the adoption of a POA by City Council created a policy to encourage pedestrian development; 4) Sign A is not consistent with a pedestrian environment; 5) the proposed Sign A exceeds the intent of the comprehensive sign plan process. Mr. Gendron approved the requested SUP, with a modification; the approval allows only Sign B, Sign A shall not be permitted. Mr. Gendron reminded the applicants that the decision can be appealed to City Council.

Finding of Fact:

- This site exhibits unique characteristics of architectural style, physical scale and other distinguishing features that represent a clear variation from conventional development.
- The proposed signage incorporates special design features integrated with the building architecture, such as the overall project theme of “Shadow Walk”.
- The Mesa Arts Center is a unique use in Mesa and is a clear variation from conventional development.
- The proposed signage includes the following special features: a fin element on the north side of the display, that provides edge illumination, routed push through letters that provides for edge illumination for MESA ARTS CENTER, planter base around the display with an ambient glow around the planter base within the singular blue bar.
- The speed of traffic is 30 mph and the volume is approximately 20,000 vehicles per day. No other signs that could be distracting influences are in proximity to the proposed sign location. The proposed design is compatible with other signs at Mesa Art Center and with the project itself, by matching the colors of the building.

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- Related to Sign A, the proposal does not comply with the criteria for the granting of a Special Use Permit (SUP). The definition of SUP states the proposal should be consistent with Council adopted policies. The adoption of a POA by City Council created a policy to encourage pedestrian development. Sign A is more appropriate to an arterial street environment and not consistent with a pedestrian environment.

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Case No.: ZA08-050

Location: 226 South Date

Subject: Requesting a Substantial Conformance Improvement Permit (SCIP) to allow the expansion of a general industrial/warehouse use in the M-2 zoning district.

Decision: Approval with the following conditions.

1. Compliance with the site and landscape plans submitted.
2. Compliance with all requirements of the Design Review Board.
3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.

Summary: Fred Woods, architect, and Roy Perkins, owner represented the requested SCIP noting the existing condition of the site and the proposal. Mr. Gendron confirmed that Building Code issues would not exist and that a “no-man’s” space would not be created with the proposed development. Mr. Gendron confirmed the existing development is greater than 10 years old and inquired about proposed landscape improvements. Mr. McVay summarized the staff report and recommendation.

Finding of Fact:

- The Substantial Conformance Improvement Permit (SCIP) allows the development of 6,380 square foot warehouse building and associated fenced yards. The SCIP allows the intensification of an existing nonconforming site without bringing the entire site into conformance with current development standards. The site is within an M-2 zoned industrial development and is bordered by M-2 properties on the north, east and west and by a railroad right-of-way on the south.
- As justification, the applicant has noted: 1) the existing pattern of development permits zero-setbacks within this older industrial neighborhood; 2) the deviations will not have a negative impact on and is compatible with surrounding properties; and 3) improvement will have the positive impact of encouraging reinvestment into other properties.
- Compliance with current Code development standards in relation to setbacks would result in the demolition or significant alteration of the existing structures and would significantly limit the expansion potential of the site. To mitigate the proposed zero-setback from the east property line for the new building, the applicant will provide improved foundation base and foundation base landscaping along the west building elevation of the new building; and provide new landscape planters along the west elevation of the existing 640 s.f. building, at the east end of the parking row adjacent to the north elevation of the existing warehouse, and along the south property line at the end of the drive aisle. The applicant will further provide new trees along the east side of the retention basin and will line the retention basin with new decomposed granite.

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- Given the relatively minor change to the site, the existing pattern of development in the larger M-2 zoned industrial area, the adjacent uses, and the proposed landscape improvements, reasonable justification has been provided for the request. Consequently, the site plan proposed by the applicant represents substantial conformance with current development standards

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Case No.: ZA08-051

Location: 4616 East Fighter Aces Drive

Subject: Requesting variances to allow: 1) a reduction in the required number of on-site parking spaces; 2) reductions in foundation base width and associated landscaping; and 3) reductions in the setback and associated landscaping from Fighter Aces Drive; all in conjunction with the redevelopment of a hanger in the M-1 zoning district.

Decision: Approval with the following conditions.

- 1. Compliance with the site plan submitted except as modified by the conditions below.*
- 2. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Doug Dawson, designer, and John Hogle, leasee represented the requested variances noting the lease agreement with Flacon Field required the provision of on-site parking spaces and the existing lease area was not sufficient to provide that parking, necessitating a reconfiguration of the lease area. Mr. Gendron confirmed that the applicants were comfortable that sufficient parking has been identified for their use. Mr. Gendron confirmed the location of new landscape areas. Ms. Elliott summarized the staff report and recommendation.

Finding of Fact:

- The redevelopment of an existing hangar to include a second floor that will consist of two new offices, a kitchenette, restroom, and storage area. In addition, the footprint of the hangar will be increased minimally to include a balcony and exterior staircase.
- This property is legal nonconforming in that it does not comply with current Code requirements related to landscape setbacks, parking, and foundation base. The hangar modifications invoke full conformity with current Code requirements. The variances permit the existing nonconformities to remain while allowing the applicant to make improvements to the hangar.
- The lease line will be adjusted to provide adequate distance between the proposed covered parking and lease line, as the previous lease boundaries were insufficient to comply with Falcon Field's requirements.
- Several improvements to the site will occur that bring the overall development closer to compliance with current Code requirements. Among them, a 5-foot wide landscaped foundation base adjacent to the south and east building elevations. A 5-foot landscape setback has been provided along the east lease line. Both the foundation base and landscape setback will be vegetated with shrubs and groundcovers, as trees are discouraged to prevent potential bird strikes.

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- The Federal Aviation Administration does not support the planting of any type of vegetation in or around an active runway, taxiway, taxi lane, or aircraft-parking apron due to the likelihood of potential bird strikes. As a result, landscape has not been provided adjacent to the north and west building elevations.
- As justification, the applicant has noted the size of the lease area as a hardship. The lease areas in Falcon Field tend to be restrictive to encourage higher density development that facilitate additional investment opportunities. The applicant further indicates that the requested variances would not grant special privileges or unusual favor to this property, as most other lease areas are also challenged with meeting building and landscape setback requirements.
- The shape of the lease does not allow a 20-foot landscape setback adjacent to Fighter Aces Drive without impacting the driveway; therefore, the lack of street frontage for this property is a hardship that can only be resolved with the granting of a variance.
- The Falcon Field Design Guidelines, which have not been formally adopted, provide informal guidance in determining unique development characteristics associated with the airport. The guidelines suggest that hangar parking be provided at a ratio of 1 space per 2000 square feet gross floor area, rather than the ratio of 1 space per 900 square feet of gross floor area required by current Code. Using these guidelines, this development would be required to provide 9 parking spaces, while current Code requires 14. Eight parking spaces have been provided, which is reasonably commensurate with the proposed Design Guidelines.
- Full compliance with current Code requirements would result in reducing the size of the existing hangar to a point where it could not be used for its intended purpose. The applicant is proposing to maintain the existing size of the hangar with minimal modifications that include a balcony and exterior staircase. Further, a landscape setback adjacent to Fighter Aces Drive would limit access to the development, and additional parking spaces would require the existing hangar to be reduced in area.
- Development within an airport and size of the lease lot represent unique conditions that provide sufficient justification for the requested variances. Additionally, the proposed use and improvements will be compatible with, and not detrimental to, adjacent properties in the area.

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Case No.: ZA08-052

Location: 2431 East McKellips Road

Subject: Requesting a Development Incentive Permit (DIP) to allow development of a group commercial center in the C-2 zoning district.

Decision: Continued to the June 24, 2008 hearing.

Summary: Kevin Kerpan, architect and Wayne Martella, property owner, represented the requested Development Incentive Permit request, noting the case has received the approval of the Design Review Board and the replacement of a ramp island to a landscape island at the south end of the parking field adjacent to Shops A. Mr. Gendron inquired about the intended automotive users. Mr. Martella explained there would be a transmission repair shop and a general automotive repair shop. Mr. Gendron expressed some concern with the 10-foot setback from McKellips Road. Mr. Mike, explained that additional right-of-way requirements have affected the setback. Lee Dove, representative of Heritage Circle Mobile Home Park, expressed concern with the development in relation to noise. Concerns related to building setback, height of perimeter wall, use of air tools, and sound attenuation of buildings. Given the concerns expressed, Mr. Gendron expressed interest in continuing the request to allow the applicant and neighbor an opportunity to discuss the concerns.

Finding of Fact: N/A

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Case No.: ZA08-053

Location: 8830 East Germann Road

Subject: Requesting: 1) a Special Use Permit (SUP) to allow outdoor seating; and 2) a Special Use Permit (SUP) to allow accessory outdoor activities; both in conjunction with the development of a restaurant in the C-1-PAD zoning district.

Decision: Approval with the following conditions.

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The outdoor court shall be limited to bocce ball.*
3. *The bocce ball court shall not operate later than 10:00 pm.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Randy Carter, architect, represented the requested Special Use Permits noting that the dimension from the bacci courts to a neighbor that object was approximately 374 feet where the staff report states 340 feet. In response to Mr. Gendron, Mr. Carter provided a description of bacci ball. Mr. Carter stated there would be no outdoor lighting of the patio and court besides the decorative lighting on the building, no flood lights. Mr. Carter further stated there would be no sound amplification. Mr. Gendron confirmed with staff that the approval would be specific to bacci ball only. Mr. Carter expressed acceptance with recommended conditions of approval. Mr. Gendron noted that a letter of opposition has been received from a Brant Rogers. Ms. Elliott summarized the staff report and recommendation.

Finding of Fact:

- Baci's Italian Bistro will be located in building 32 of Southgate Commerce Park, which is a light industrial and commercial development. This development has received approval from both the Planning and Zoning Board (Z05-080) and Design Review Board (DR05-073), and is currently under construction.
- The Special Use Permit allows an outdoor seating area and bocce ball court as accessory uses to the restaurant. Both the seating area and bocce ball court will be located adjacent to the west building elevation, and will be architecturally compatible with the building to be occupied by the restaurant. The bocce ball court will be enclosed by a 3'-6" high screen wall and will have a painted stucco finish and color scheme to match the building. The outdoor seating area will consist of approximately 6-8 tables.
- Parking calculations have been provided demonstrating that the development can be adequately parked with the proposed expansion of the restaurant. While the calculations are based on gross leasable area rather than gross floor area, as required by current Code, the amount of medical office in the development may be adjusted to compensate for parking if necessary.

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- The City Council and Design Review Board approved a landscape plan that provides a buffer between the business park and adjacent residences. The landscape plan includes apple, elm, and oak trees, all of which have large canopies and are capable of both filtering the noise and light pollution generated by the outdoor amenities, as well as screening the outdoor uses from view. In addition, the landscape plan includes a boulder fountain located west of the restaurant, which would also mask noise generated by the outdoor seating area and bocce ball court.
- One resident located west of the restaurant, across 88th Street, has expressed some concerns with the proposed outdoor amenities. Given the proximity of the residence to the restaurant, the property owner has questioned whether alternative locations for the outdoor amenities had been explored. In addition, there were concerns related to the hours of use and lighting related to the proposed activities.
- The applicant has responded to these concerns, noting that the outdoor amenities could not be relocated to the east elevation as there is not enough area to accommodate either activity. In addition, the outdoor amenities could not be located along the north elevation for lack of area, or adjacent to the south building elevation due to setback requirements.
- A condition of approval limits the outdoor court to bocce ball use and prohibits bocce ball play past 10:00 pm. Lighting will be minimal adjacent to the outdoor seating area and bocce ball court, to consist of wall-mounted coach-type lighting. Floodlights will not be used to illuminate the outdoor activity area.
- Given the substantial landscape buffer adjacent to the west property line, and the distance of approximately 340-feet between the outdoor amenities and nearest residence, the seating area and bocce ball court will have minimal impact on surrounding residences.
- Bocce ball is a low-key activity, and should generate little noise and light pollution. These potential disturbances will be mitigated through the landscaping provided adjacent to the west property line. While it may be more favorable to locate the outdoor amenities to a different building elevation, there are not any other options that would allow an outdoor area that complies with current Code requirements. The approved landscape plan will provide an adequate buffer between the commercial and residential uses, minimizing the impact of the proposed outdoor uses.
- The proposed outdoor seating area and bocce ball court are compatible with adjacent developments, as they are complimentary to the existing industrial and commercial development, and will have minimal impact on the nearby residential uses. Therefore, the proposed outdoor amenities will be compatible with, and not detrimental to, surrounding properties.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:35 p.m.

The cases for this hearing were recorded and are available upon request.

Respectfully submitted,

John S. Gendron
Hearing Officer

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